IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 5601 OF 2005
IN
CRIMINAL APPEAL NO. 374 OF 2005

1. Chintamani Balaram Kadam
2. Sachin Balaram Kadam .. Applicants

Vs.

The State of Maharashtra .. Respondent

Mr. B.B. Tiwari with Smt. Eva Almeida for Applicants.
Mr. A.M. Shringarpure, APP for State.

CORAM: S.S. PARKAR & ANOOP V. MOHTA,JJ.

Date : August 31, 2005.

P.C.:

1. Heard. There is an injured eye witness. The applicants are brothers. The evidence of eye witness is corroborated by the medical evidence and there is recovery of iron rod at the instance of applicant no.1. The victim had received about 22 injuries. The fatal injuries were on the head in the form of contusion and C.L.W. There are various abrasions also.

2. On behalf of the applicants reliance is placed on the judgment of the Supreme Court in the case of Anil Phukan vs. State of Assam reported in S.C.

Acquittal Criminal Judgments 204. Prima facie that decision will not help as in that case the deceased was alive for sometime still he did not mention the name of the accused. There was no corroboration to the evidence of alleged eye witness who was not injured, as in the present case. The eye witness was nephew who did not even lodge the FIR. Hence no parity with this case.

3. In the result, the application for bail is rejected. However, since both the applicants are brothers, the hearing of the appeal is expedited.

(S.S. Parkar,J.)

(Anoop V. Mohta,J.)